IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8101 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE JAYANT PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

REVASHANKER PANCHOLI PRAGATIGRUH

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 8101 of 2000

MR VH DESAI for Petitioner No. 1

GOVERNMENT PLEADER for Respondents No. 1,3

NOTICE SERVED BY DS for Respondent No. 1

..... for Respondent No. 2

CORAM : MR.JUSTICE JAYANT PATEL

Date of decision: 28/03/2002

ORAL JUDGEMENT

Rule. Mr.M.K.Patel, Ld.AGP waives service of rule

on behalf of respondents. Heard Ms.Sejal Sutaria for Mr.V.H.Desai appearing for petitioner.

2. This petition is preferred by the petitioner against the order dated 7.7.2000 passed by the D.E.O, Surendranagar copy whereof is annexed at annexure "G" at page 32 to the petition.

3. Ms.Sutaria appearing for petitioner submits that after passing the impugned order, dated 7.7.2000 or even earlier order, dated5.7.2000 no opportunity of hearing was given to the petitioner. Mr.Patel, appearing for the respondents is unable to point any documentary evidence to show that an opportunity of hearing was given to the petitioner before terminating the contract or before taking the management of the school.

4. Since the respondent is a statutory authority and even though matter is pertaining to contractual relations of the parties, observation of principles of natural justice is required to be made by the authority before ex exercising the power. In the present case, as stated above, since opportunity of hearing has not been given to the petitioner before passing the impugned order, the impugned order passed by the respondents deserves to be set aside only that ground without examining the other aspects of the matter.

5. Under the circumstances, the impugned order of taking management of the school from the petitioner is quashed and set aside only on the ground of breach of principles of natural justice with clarification that it will be open to the competent authority to decide the matter regarding taking over of the management of the school from the petitioner after giving opportunity of hearing to the petitioner. It is also made clear that if the hearing is given and the petitioner does not cooperate with the hearing or does not avail of the opportunity of hearing it will be open to the authority to pass appropriate order.

6. Until the orders are passed as indicated above, the statusquo as prevailing on today shall be maintained by both sides.

Rule is made to the aforesaid extent with no order as to costs.

28./3.2002 (JAYANT PATEL,J